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REMARKS

The Applicant would like to thank **Examiner Stinson** for the analysis contained in the Examination Report dated July 3, 2006.

The Applicant would like to begin this argument by discussing two references that the Examiner uncovered in the search and brought to the Applicant's attention, those being U.S. Patent 3,320,964 (Tripp '964 from 1967) and U.S. Patent 4,416,120 (Yono et al. '120 from 1983). The Tripp '964 patent describes a similar problem to that addressed by the present invention (see column 1 lines 37-50) and the Yono et al. '120 patent does the same (see column 1 lines 12-17). The solutions advanced by both the Tripp '964 and Yono et al. '120 are "flushing" systems. These systems deliver pressurized water mixed with detergent and wash any accumulated contaminants toward a drain, where the contaminants enter the sewer system for disposal. They are used to flush away fluids from food, such as blood.

The Applicant is presently in licensing discussions with a U.S. Company and was fortunate to have an opportunity to discuss these systems with a representative of the Company who had worked with them and was familiar with why they failed. This representative stated:

1. The display cases had to be placed onto a defrost cycle to work. (see Yono et al. '120 column 4 commencing line 67). If the display cases were not on a defrost cycle, debris tended to freeze to the display case and not wash down the drain as intended.
2. When the display cases were placed on a timed defrost and cleaning cycle (see Yono et al. '120 column 4 line 66 to column 5 line 10), tests showed spikes in bacteria growth on the food during such defrost cycles and the food inspectors objected to such practices, requiring that all food be removed during cleaning.
3. The drain frequently clogged, resulting in a need for frequent servicing (see Yono et al. '120 column 5 lines 7-13 B regarding measures taken to prevent sewer overload)

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4. The systems required high pressure and a high volume of water to be effective. It was found, however, that instead of removing and killing bacteria, it merely moved the bacteria around and made it less obvious. Indeed, in some cases, it was found to promote the spread of bacteria. This was another reason why health officials required that all food be removed during cleaning.
5. When the system worked properly, the display cases looked clean but they still were contaminated by bacteria.

Turning now to the outstanding official action, claims 1, 3 and 7-9 are rejected, under 35 U.S.C. § 102(b), as being clearly anticipated by either UK 2 319 330 ("UK '330") or UK 2 326 095 ("UK '095"). The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

Misting systems are currently used extensively to deliver airborne moisture onto produce to slow dehydration and, thereby, keep fruits and vegetables fresh. It will be appreciated that misting systems would not be used with products other than fruits and vegetables, such as poultry, fish and red meat. The misting systems, therefore, tackle a completely different problem than the flushing systems that deal with fluids from food, such as blood.

The problem identified in both of the applied UK patents is contamination of the misting systems, which results in bacteria being sprayed onto the fruits and vegetables. UK '330 describes a maintenance system which flushes the piping of the apparatus with disinfectant in order to keep the interior of the moisture supply apparatus sterile to ensure that the mist produced is also sterile. As such, UK '330 is not concerned with spraying disinfectant from a reservoir through a spray manifold, as presently claimed. This distinction is clear from the fact that after passing the bactericidal agent through the fog generator, the agent flows through ducting and into a waste sump for subsequent disposal (see page 9, line 32 to page 10, line 7).

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UK '095 describes an apparatus that is concerned with producing sterile mist, and not with spraying disinfectant into a case tank. This distinction is clear as the concentration of the ozone supplied to the apparatus is intended to treat the water, the water ozonator, piping, and less so, the actual moisture generator and distributor (see page 14, lines 9 - 22). No mention is made of spraying chemical disinfectant. It is respectfully submitted that it would be unthinkable to spray chemical disinfectant onto fruits and vegetables.

In view of the above, it is respectfully submitted that neither UK '330 nor UK '095 in any way anticipates the presently claimed invention. UK '330 specifically teaches one how to clean the internal piping of a misting system. UK '095, on the other hand, teaches one how to ensure that the mist delivered onto produce is sterile. Neither one of these cited patents in any way addresses contamination in the case tank positioned well below the food display area. It is respectfully submitted that there is no teaching in either of the applied references which would suggest utility if repositioned in the casing tank. Moreover, it is respectfully submitted that these systems are not intended to, nor would they, kill bacteria on surfaces that are sprayed with mist from the misting systems. Indeed, it is respectfully submitted that they would promote bacteria growth as water drips off the produce into the tank, carrying with it bacteria from the produce to a substantially perfect incubation area within the casing tank.

To make the above noted distinctions and differences of the present invention abundantly clear, claim 1 is suitably amended. As illustrated in FIG. 1, the present system is intended for use while the product is on display. Unlike the either of the UK patents cited by the Examiner, the spray manifold is positioned below a product support. The present invention is not a "flushing" system, such as previously were used to treat tank cases. The spray coverage and the spray patterns are described on page 7 at lines 8-11. Claim 1 now specifies recites the spray manifold being arranged to provide thorough spray coverage in a swirling

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spray pattern within the case tank without adversely effecting product concurrently on display on the product support.

In view of the above arguments and amendments, it is respectfully submitted that claim 1 is not anticipated by either UK '330 or UK '095. Further, as claims 3 and 7-9 are all dependent from claim 1, it is submitted that these are not anticipated either.

Claim 3 is rejected, under 35 U.S.C. § 103, as being unpatentable over either UK '095 or UK '330 while claims 4-6 are rejected, under 35 U.S.C. § 103, as being unpatentable over either UK '095 or UK '330 and Veith. The Applicant acknowledges and respectfully traverses the raised obviousness rejections in view of the following remarks.

In paragraph 4, the Examiner refers to claim 3, whereas the Applicant believes that the Examiner intended to refer to claim 2. In any event, the Applicant acknowledges that the additional reference of Veith may, arguably relate to the feature(s) indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base references either UK '095 or UK '330, or the combination thereof, with this additional art of Veith still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. As such, all of the raised rejections should be withdrawn at this time in view of the above amendments and remarks.

In summation, the Applicant respectfully submits that these flush systems neither anticipate nor render obvious the presently claimed invention.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the

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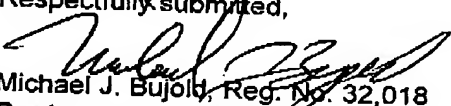
UK '095, UK '330 and/or Veith references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,


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